In the Supreme Court of the United States

OCTOBER TERM, 1965

No. 639

WILLIAM BROADNAX, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

Petitioner was convicted in the United States District Court for the Eastern District of Michigan of the illegal possession of non-tax-paid liquor and was sentenced to imprisonment for three years, with eligibility for parole at any time. The conviction was affirmed in an opinion reported at 346 F.2d 119.

The sole issue raised is the sufficiency of an affidavit to support the search warrant pursuant to which the liquor in question was seized. The affi-

davit is set forth in full at pages 4-7 of the petition. It shows, *inter alia*, that the agent who applied for the warrant had received reliable information on May 17, 1961 that petitioner, a known violator, was handling illicit liquor at a given address and that deliveries were being made by a brown Ford at the alley at the rear of such premises. By personal observation on May 31, the agent saw a brown Ford drive into the alley, saw petitioner walk into the alley carrying what appeared to be a gallon glass jug covered with a paper sack, and saw the driver of the truck place the jug into the trunk of the Ford. About twenty minutes later, petitioner opened the garage doors of the premises and was present when the driver of the Ford carried from the garage two cartons of the size and shape commonly used to contain one gallon jugs of whiskey. In the morning on June 1, 1961, the brown Ford again appeared at the alley and the driver removed a carton of the size and shape used to contain gallon glass jugs. The driver was observed entering the back steps of the premises in question.

The personal observations of the agent, detailed in the affidavit, were sufficient to corroborate the information which the agents had been given. The totality of circumstances was therefore clearly sufficient to justify the issuance of a search warrant. *United States* v. *Ventresca*, 380 U.S. 102; *Jones* v. *United States*, 362 U.S. 257.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

THURGOOD MARSHALL,
Solicitor General.

FRED M. VINSON, JR.,
Assistant Attorney General.

BEATRICE ROSENBERG,
Attorney.

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